

**MEMORANDUM OF UNDERSTANDING**  
**between**  
**CITY OF SANTA CLARA**  
**and**  
**UNCLASSIFIED POLICE MANAGEMENT EMPLOYEES, UNIT #9A**

**DECEMBER 17, 2006 – DECEMBER 25, 2010**

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**DECEMBER 17, 2006 – DECEMBER 25, 2010**

In accordance with the provisions of Section 18 of the City of Santa Clara Resolution #2979, entitled "Employer-Employee Relations", this Memorandum of Understanding (MOU) constitutes the results of discussions between the City Management Staff and certain Unclassified Police Management Employees (Unit 9A) of the City of Santa Clara on all matters within the scope of representation from December 17, 2006 through December 25, 2010.

**1. TOTAL COMPENSATION**

- A. For the purposes of this agreement, total compensation is defined to include the following items:
- 1) Salary
  - 2) Fringe Benefits:
    - a. Retirement\*
    - b. Holiday Pay\*
    - c. Vacation Pay\*
    - d. Uniform Allowance\*
    - e. Insurance
    - (1) Life
    - (2) Medical
    - (3) Dental
    - (4) Long-Term Disability
    - (5) Non-Recoverable Health Services
    - f. Retiree Medical
- \*These elements are directly tied to salary and move as a function of salary. No independent movement is allowed in these element areas.
- B. For this MOU, a base total compensation as defined above, for a Unit 9A Unclassified Employee, will be determined in the following manner:
- 1) The average monthly salary of the Unit 9A Unclassified Employees will be calculated from the salary schedule, which included December 20 of the current year.
  - 2) From this average salary, an array will be developed to establish the base total compensation for the Unclassified Employee as it would have been on December 20 of the current year.

**2. ADJUSTMENT OF SALARIES AND FRINGE BENEFITS**

- A. YEAR 1 (2007): Effective December 17, 2006, through December 15, 2007, for all classifications represented by Unclassified Police Management, the City shall increase the monthly total compensation by the amount equal to the percentage total compensation increase received by Unit 2 effective December 17, 2006. The City will also contribute fifty percent (50%) of the employer CalPERS retirement rate increase above 7.381% inside of the total compensation array. The new total compensation schedule shall reflect the

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current City rates for CalPERS, PEMHCA, and Kaiser single employee health insurance.

- B. YEAR 2 (2008): Effective December 16, 2007 through December 13, 2008, for all classifications represented by Unit 9A, the City shall increase the monthly total compensation by the amount equal to the percentage total compensation increase received by Unit 2 effective December 16, 2007. In addition, the City shall pay 100% of the 2008-2009 employer CalPERS retirement rate increase above 7.381% inside the total compensation array. The new total compensation schedule shall reflect the current City rates for CalPERS, PEMHCA, and Kaiser single employee health insurance.
- C. YEAR 3 (2009): Effective December 14, 2008 through December 26, 2009, for all classifications represented by Unit 9A, the City shall increase the monthly total compensation by the amount equal to the percentage total compensation increase received by Unit 2 effective December 14, 2008. In addition, the City will contribute fifty percent (50%) of the employer CalPERS retirement allocation above 7.381% in the total compensation array. The new total compensation schedule shall reflect the current City rates for CalPERS, PEMHCA, and Kaiser single employee health insurance.
- D. YEAR 4 (2010): Effective December 27, 2009, through December 25, 2010 for all classifications represented by Unit 9A, the City shall increase the monthly total compensation by the amount equal to the percentage total compensation increase received by Unit 2 effective December 27, 2009. In addition, the City will contribute fifty percent (50%) of the employer CalPERS retirement allocation above 7.381% in the total compensation array. The new total compensation schedule shall reflect the current City rates for CalPERS, PEMHCA, and Kaiser single employee health insurance.
- E. It will be the prerogative of the Unit 9A employees to allocate the distribution of total compensation monies within the following element areas: 1) Salary, 2) Life Insurance Premiums, 3) Medical Insurance, subject to the requirement that the amount of the Kaiser single health insurance premium, including the PEMHCA minimum, be included in the mandatory section of the total compensation array, 4) Long-term disability insurance premiums, 5) Non-recoverable health services and 6) Uniform Allowance except as otherwise noted in this MOU. It is hereby agreed to and understood by both parties to this MOU that distribution of total compensation monies is to be based upon: 1) the monthly base total compensation array for the Unit 9A Unclassified Employee whose total compensation is the average of the Unit, and 2) the maximum premium payable by City, and not actual premium to be paid by City, except as noted elsewhere in this agreement.
- F. It is recognized by both parties to this agreement that it is their mutual responsibility to independently verify, to the extent possible, the accuracy of the information upon which total compensation adjustments are made. Should it be discovered by either party that adjustment(s) to salary and fringe benefits are based on erroneous information or has been erroneously computed, the necessary corrective action will be taken as soon as practical after the discovery and notice of the error has been given. It is the mutual responsibility of both parties to report any suspected error immediately upon

discovery to the other party. However, the period for which there will be a right to recover any monies which are either overpaid by the City or underpaid to the employee shall be limited to an adjustment period of up to 90 calendar days from the date the error was first reported to the other party. The corrective action will be taken even in circumstances where the error may bridge successive MOU's, but the recovery will still be limited to amounts owed or owing during the prior 90 calendar days. The 90 calendar day period will begin upon the date of written notification by personal service upon the other party.

Right of recovery by the City of overpayment shall be limited to recovery over the same time period as the overpayment was made. Said repayment will begin with the next paycheck following final determination of the amount to be repaid. Underpayment to the employee shall be made by the City in a lump sum of the amount owed on the next regular paycheck following final determination of the amount to be paid.

3. HEALTH INSURANCE PREMIUMS

A. Mandatory Health Allocation

Kaiser single employee health insurance will be included in the Total Compensation array as a Mandatory Allocation. The amount allocated for Kaiser single employee health insurance will be the premium minus the statutorily required Public Employees Medical and Hospital Care Act (PEMHCA) contribution. The PEMHCA contribution will remain in the Total Compensation array as a separate Mandatory Allocation. The City will change the dollar amount designated within the array for Kaiser single employee health insurance when the premium amount changes and/or when the statutorily required PEMHCA contribution changes.

B. Discretionary Health Allocation

The Miscellaneous Unclassified Management Employees may (on a once-a-year basis, commencing with the beginning of the calendar year) designate within the discretionary portion of the total compensation array a fixed monthly sum for all represented employees for employee plus one or full family coverage. In order to offset the increase in premium that may be expected during the course of the calendar year, the Miscellaneous Unclassified Management Employees monthly discretionary allocation for health insurance premiums may exceed the cost of the lowest cost family medical insurance premium coverage available to employees who reside within Santa Clara County by an amount not to exceed ten percent (10%) above said premium at the time of the annual allocation of total compensation monies. If the health insurance premium for an individual employee exceeds the amount allocated, the balance is paid by way of a salary deduction from the pay of the individual employee.

C. Health Allocation Refund

All individual employees having health insurance payments made on his/her

behalf that are less than the monthly amount allocated by the Miscellaneous Unclassified Management Employees will have the difference refunded on a once-a-month basis. Such payments shall be made on the first paycheck issued in each month. This refund program requires the following qualifications: 1) it must be a health insurance program; and 2) it must be a health insurance vendor with a current contract with the City through the CalPERS Health Insurance Program. City health insurance coverage will be at the option of the individual employee. It is the intent of this section that employees opting not to have City health coverage will be refunded the full amount allocated on their behalf for health insurance.

- D. The City shall comply with the provisions of the Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1993 (CFRA).

4. DENTAL PROGRAM

Unit 9A is not required to participate in the City Dental Reimbursement program. Subject to the rules of the specific program, represented employees in Unit 9A may, as a bargaining unit, join in any other City authorized dental program.

5. HOLIDAY PAY

The City will observe the following thirteen (13) dates (or days) as City holidays and City offices will be closed in observance of those holidays. Represented employees will be entitled to eight (8) hours of paid time off in observation for each of the holidays listed:

New Year's Day (January 1), Martin Luther King, Jr. Day (3<sup>rd</sup> Monday in January), President's Day (3<sup>rd</sup> Monday in February), Spring Holiday (observed on Good Friday), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (1<sup>st</sup> Monday in September), Admission Day (September 9), Columbus Day (2<sup>nd</sup> Monday in October), Veteran's Day (November 11), Thanksgiving Day (4<sup>th</sup> Thursday in November), Friday after Thanksgiving, and Christmas Day (December 25).

Holidays which fall on a specific date and which fall on Saturday are observed the preceding Friday. Holidays which fall on a specific date and which fall on Sunday are observed the following Monday.

Represented employees will also receive thirteen work days (104 hours) of holiday pay, prorated over 26 bi-weekly pay periods annually. The number of annual paid holidays included in the total compensation allocation will be 13 days (computed on the eight hour per day pay rate).

6. VACATION ACCRUAL

- A. Represented employees will accrue vacation, calculated to four decimal points for accuracy, as follows:

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<u>COMPLETED YEARS OF SERVICE</u>	<u>ACCRUAL RATE</u>
1 through 9 years	120 hours
10 through 15 years	160 hours
16 through 20 years	176 hours
21 or more years	192 hours

- B. An employee may, up to twice per calendar year, cash-out accrued vacation at his/her current hourly pay rate up to a combined maximum of 80 hours.
- C. Maximum vacation accrual which may be credited to an employee at the end of the pay period which includes December 31 shall be 400 hours.
- D. In lieu of receiving a vacation-leave cash payout at retirement, the Association may vote to roll accrued vacation leave hours into the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to Association compliance with Federal rules associated with employee contributions of vacation leave to their VEBA accounts.

7. SICK LEAVE/FAMILY SICK LEAVE/PERSONAL LEAVE

A. SICK LEAVE

- 1) Employees shall accrue ninety-six (96) hours of sick leave per year of regular City employment. Sick leave shall accrue in equal amounts each pay period. Employees shall not accrue sick leave while they are on unpaid status.
- 2) Use of sick leave will be under the same terms and conditions as are now in place. Vacation and Management Leave may be used to supplement sick leave as available and with Department Head approval.
- 3) In lieu of receiving a sick-leave cash payout at retirement, the Association may vote to roll the sick leave cash payout into the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to Association compliance with Federal rules associated with employee contributions of sick leave to their VEBA accounts.

B. FAMILY SICK LEAVE

- 1) Not more than forty eight (48) hours of sick leave within one calendar year shall be granted to any employee for the care or attendance upon members of his/her immediate family, unless the use of additional leave is approved by the City Manager or designee. "Immediate family" is defined as spouse, parent, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, parent by marriage, step-parent, step-child, grandparent by marriage, son-in-law, daughter-in-law, sibling by marriage, foster parent, domestic partner, anyone residing with employee, or anyone dependent on the employee for care.

C. PERSONAL LEAVE

- 1) Each calendar year, an employee is entitled to use twenty-four (24) hours of accrued sick leave as Personal Leave, provided he/she has sufficient sick leave balance available.
- 2) Personal leave is intended to provide the employee with paid time off to attend to legitimate personal business that may arise from time to time during the year. Personal Leave may be used to supplement sick leave as required.
- 3) The employee has an obligation to provide as much notice as possible so as to allow for proper scheduling by the department.
- 4) Providing that the minimal requirements of proper notification have been met, the use of Personal Leave should not be denied.
- 5) The adoption of this program does not modify the existing ability of the employee to exchange up to 96 hours of accrued sick leave for up to 48 hours of vacation, based upon two (2) hours of sick leave for one (1) hour of vacation as provided and defined in the Personnel and Salary Resolution.

8. BEREAVEMENT LEAVE

- A. The City will provide employees with a paid bereavement leave benefit to attend to the customary obligations arising from the death of a member of an employee's immediate family, as defined in this Section 8(A). Employees are eligible to receive up to forty (40) hours of bereavement leave in the event of the death of a parent (including step, adoptive and in-law), child (including step, adoptive and in-law), sibling (including step, adoptive and in-law), spouse or domestic partner; up to three (3) work days (regardless of shift assigned) of bereavement leave in the event of the death of a grandparent (including step, adoptive and in-law), grandchild (including step, adoptive and in-law), aunt (including step, adoptive and in-law) or uncle (including step, adoptive and in-law); and up to one (1) work day (regardless of shift assigned) of bereavement leave in the event of the death of their own or a step, adoptive, or in-law great-grandparent, great-grandchild, niece, nephew, or first cousin.
- B. The bereavement leave benefit is based on each death occurrence and is not charged through the total compensation model.
- C. Up to five (5) work days of additional bereavement leave may be charged to an employee's sick leave balance with City Manager approval.
- D. At the request of the City, the employee will provide verification.

9. VOLUNTARY TIME OFF

Employees may request voluntary unpaid time off under the following conditions:



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- A. Approval of a work schedule that does not adversely impact the operations of the department or other employees in the work unit with the approval of the Department Head and the City Manager.
- B. No impact on either sick leave or vacation accrual if sufficient hours are worked in a pay period to entitle the employee to his/her regular accrual rate for either benefit.
- C. No reduction of insurance premium payment or refund as long as sufficient hours are worked to allow for full payment of the premium for an employee working a full time work schedule. If the number of hours worked is less than the number required for full payment of premiums or refunds, the premium or refund payments will be reduced in proportion to the hours required to gain full credit.
- D. Voluntary time off may be taken without the employee first using all of his/her accrued leave.
- E. Employee may cancel his/her participation in the program with a notice time agreed upon at the time of the granting of the request, which will be sufficient to allow the department head to accommodate the request.
- F. Cancellation of the employee's participation in the program will be at the discretion of the Department Head with the approval of the City Manager.

### 10. VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA)

The City has established a Voluntary Employee Beneficiary Association (VEBA) trust under Internal Revenue Code Section 501(c)(9) for the purpose of providing a City-wide defined contribution post retirement medical benefit for employees hired prior to December 21, 2003. Specific information regarding the Plan is referenced in the Plan Document.

VEBA is a tax-exempt trust account formed under Internal Revenue Code Section 501(c)(9) designed to accumulate assets to fund the future payment of qualified medical expenses (including specified insurance premiums). At retirement, participants may withdraw the accumulated plan benefits to pay for medical insurance premiums and will not be taxed under current state and federal law. Withdrawals cannot be made for non-medical purposes.

Effective December 21, 2003, the City ceased making contributions to employee VEBA accounts and instead provided a Retiree Medical Reimbursement Benefit. Employee VEBA accounts remained and will remain open for other potential contributions. Effective beginning December 16, 2007, the City will contribute \$50 per month to employees' VEBA trust accounts.

### 11. RETIREE MEDICAL REIMBURSEMENT BENEFIT

The Retiree Medical Benefit shall provide each employee who retires from the City with a CalPERS retirement with at least ten (10) years of regular City service with a reimbursement for unreimbursed single retiree health insurance premium,

beginning with the first full month of retirement from City service and ending with the last full month before the retiree's sixty-fifth (65<sup>th</sup>) birthday. Starting with the month in which the retiree turns age sixty-five (65), the reimbursement will be for unreimbursed Medicare single retiree supplemental insurance premium or unreimbursed single retiree insurance premium. For premiums paid in calendar year 2006 that will be reimbursed in calendar year 2007, the City will reimburse an amount up to \$264 per month, including the PEMHCA minimum, for unreimbursed single retiree health insurance premium or up to \$159 per month, including the PEMHCA minimum, for unreimbursed Medicare single retiree supplemental insurance premium or single retiree health insurance premium. The amount of the City reimbursement will be adjusted once each year by the percentage change from October to October in the San Francisco-Oakland-San Jose urban wage earners and clerical workers (W) consumer price index from the prior year, but in no event will be increased more than 3.5%. Beginning in 2004, the City will fund this benefit with an amount to be determined by an actuary.

Each retiree will be required to submit proof of medical coverage to the City each year. The City will pay the reimbursement in a lump sum payment quarterly.

12. AUTOMOBILE ALLOWANCE

The automobile allowance program available to represented employees is as follows:

- A. The monthly automobile allowance shall be \$400 per month.
- B. In order to qualify for this allowance represented employees must have available for use on City business a four passenger vehicle which is not more than three (3) years old at the time it is placed in service under this program.
- C. Insurance as required under the State of California Motor Vehicle Code will be provided by the represented employee and must be in force at all times the vehicle is operated on City business.
- D. Employee receiving automobile allowance is responsible for all gasoline and maintenance costs. Employee shall also maintain the vehicle in a clean and presentable condition.

13. MANAGEMENT LEAVE PROGRAM

The Management Leave Program is as follows:

- A. Effective January 1 of each year, represented employees will be credited with 64 hours of Management Leave. Effective beginning January 1, 2008, represented employees will be credited with 80 hours of Management Leave.
- B. New hires or employees promoted into Unit 9A between January 1 and June 30, 2007 will be credited with 64 hours of Management Leave. New hires or employees promoted into Unit 9A between July 1 and December 31, 2007 will be credited with 32 hours of Management Leave. New hires or employees promoted into Unit 9A between January 1 and June 30 in

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calendar year 2008 and subsequent calendar years will be credited with 80 hours of Management Leave. New hires or employees promoted into Unit 9A between July 1 and December 31 in calendar year 2008 and subsequent calendar years will be credited with 40 hours of Management Leave.

- C. Use of Management Leave is subject to approval by the City Manager or his/her designee. Such use shall be approved unless staffing or other conflicts prohibit such approval.
- D. Management Leave is not charged through the Total Compensation Array.
- E. Management Leave may not be converted to cash or other paid time off.
- F. Unused Management Leave does not carry over from one calendar year to the next.

14. EMERGENCY PAID LEAVE POOL

A. ADMINISTRATION

Administration of this program shall be provided by a three (3) member Emergency Paid Leave Board (Board) consisting of two (2) members of the Unit 9A Board and the City Director of Human Resources (or designee). Determination of eligibility to use the vacation established in this Emergency Paid Leave pool will be by majority vote of this board. An adverse decision of this board may be appealed to the Association Board of Directors and their determination shall be final.

B. METHOD OF DONATION

- 1) Contribution of vacation or CTO will be computed at the member's base hourly rate of pay (excluding premium or specialty pay).
- 2) Contribution may be made from earned vacation, CTO or cash only. Conversion of Sick Leave to Vacation for purposes of donation to this pool will be immediately credited to the pool without the ninety (90) day waiting period.
- 3) In a case where it has become known that an employee has been seriously injured or has a life-threatening illness and is in need of assistance from the Emergency Paid Leave Pool, contributions from accrued Sick Leave, bypassing vacation conversion, computed at the contributing employee's base hourly rate of pay (excluding premium or specialty pay) may be made for the benefit of that specific employee who has the need.
- 4) Employee may authorize the City to automatically convert vacation that should be accrued to the employee to the pool when the employee's vacation accrual has reached the maximum allowed.

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- 5) Funds contributed to the Emergency Paid Leave Pool will be placed in an interest bearing Trust Fund. The Trust Fund will be accumulated in total dollars. No record of number of hours contributed to the Pool will be maintained. An employee making a donation to the Pool will not have a vested right to the amount donated. The Finance Department will report the status of the fund on a calendar quarter basis to the Association.
- 6) Employees may contribute earned vacation, CTO or cash to the Emergency Paid Leave Pools of other City bargaining groups.

C. USE OF POOL

- 1) Employee must have a verified emergency need for time off to request Emergency Paid Leave from the pool. Medical emergencies for the employee or dependent shall be verified by a doctor's certification and shall include the anticipated duration of the medical emergency. Non-medical emergencies shall be verified by certification acceptable to the Board and shall include the anticipated duration of the emergency.
- 2) Employee must have exhausted appropriate paid leave (sick leave including eligible conversion to vacation, vacation or CTO) prior to becoming eligible to request Emergency Paid Leave benefits from the pool. Employee will be notified by the Personnel Department when they first become eligible to request emergency leave benefits from the pool.
- 3) The maximum time available from the pool (subject to the assets of the pool) will be 160 hours (two [2] pay periods) for Emergency Paid Leave benefits due to the illness or injury of the employee or the maximum allowable accrual of vacation for emergency needs of the family of the employee.
- 4) An additional 160 hours (two pay periods) will be made available in extreme circumstances if an employee has a medical emergency. The decision to grant or deny a request for an additional 160 hours will be made by a majority vote of the Employees' Association Board Members.
- 5) Emergency Paid Leave will be deducted from the pool based upon the employee's base hourly rate of pay (excluding premium or specialty pay).
- 6) Emergency Paid Leave hours will be made available for use in the pay period following approval by the Board.
- 7) Use of Emergency Paid Leave from the pool will be treated in the same manner as use of regular vacation. The employee will continue to accrue sick leave, vacation, insurance coverage and other benefits in the same manner as he/she would if using regularly credited vacation.
- 8) Emergency Paid Leave that has been credited to the employee and has not been used when the emergency has terminated will be reinstated to the pool. Vacation, sick leave and other benefits that have accrued to the employee will remain in the employee's account.

15. FLEXIBLE SPENDING PLAN, INTERNAL REVENUE CODE, SECTION 125

The City will make available a Flexible Spending Plan under the Internal Revenue Code Section 125 for employees. Employees may contribute pre-tax (federal, state, FICA, Medicare) dollars for dependent care and qualified un-reimbursed medical expenses. This Plan will follow the regulations outlined by the Internal Revenue Code. Detailed information will be available in the Summary Plan Document.

The City will pay the administrative expenses for the plan. This Plan is voluntary and participating employees will pay the monthly participation cost. The monthly participation cost will be considered pre-tax, as defined above, under Internal Revenue Code Section 106. Participating employees will be provided with an Employee Plan Summary and regular statements regarding the status of their flexible spending accounts.

16. DOMESTIC PARTNERS

The City shall make all benefit programs available to employees, dependents and domestic partners, subject to the requirements of each benefit provider.

17. CHEMICAL TESTING

It is the policy of the City of Santa Clara, the Santa Clara Police Department and the Association to provide and maintain a drug and alcohol free work environment for all employees. The above parties recognize and agree that the duties, responsibilities and actions of a police officer may expose the City, the Department and its employees to possible civil or criminal liabilities in the area of drug and alcohol use. In order to address the above concerns, all parties agree as follows:

It will be the responsibility of any represented employee to comply with the Santa Clara Police Department policy on drug and alcohol use, and pursuant thereto, to submit to a blood, breath or urine test as appropriate, when ordered by the Chief of Police or his/her designee. All chemical testing shall be administered in a medically approved manner and as soon as practical after being ordered, but no later than six (6) hours after the incident, whether the employee is on-duty or off-duty at the time of the occurrence whenever any of the following occur:

- A. Any incident in which a firearm is discharged by an employee, acting under color of authority, and death or serious injury is likely to occur. Furthermore, unless the death or serious injury of another occurs, this section will not apply to incidents in which a firearm is discharged accidentally, as a warning shot, or at a dangerous or suffering animal. For the purpose of this section, the use of an extended range impact weapon is not defined as a firearm discharge unless used as deadly force..
- B. Any incident involving an employee's direct application of physical force personally upon another which results in death or serious bodily injury and the employee is acting under color of authority.

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- C. Any traffic accident involving an employee operating a City-owned vehicle which results in death of another or any traffic accident involving an employee operating a City-owned vehicle which results in serious bodily injury to another and the employee appears to be the proximate cause of the accident.
- D. Any incident where the Chief of Police or his/her designee has a reasonable belief based upon objective symptoms that an employee is in violation of the of the departmental policy on drug or alcohol use. The verbal order to submit to a blood, breath or urine test(s) shall set forth the reasons for the test(s) and shall be followed at the time the test is administered by a written statement of the order.
- E. Any reasonable incident where the Chief of Police or his/her designee develops reasonable suspicion that an employee has used illegal drugs. Reasonable suspicion will be defined as that quantity of proof or evidence that is more than a hunch, but less than probable cause and must be based on objective and articulable facts sufficient to lead a reasonable, prudent supervisor to suspect that an employee has used illegal drugs.

The following examples, alone or in combination, may constitute reasonable suspicion:

- 1) A pattern of documented abnormal or erratic behavior that indicates potential drug use;
  - 2) Direct observation of drug or alcohol use;
  - 3) Corroborated information provided by a reliable and credible source that an employee has engaged in illegal drug use, the identity of which source shall be available to the employee and the association.
- F. Employees being assigned to, or being rotated out of specific assignments shall be subject to drug testing at the beginning and at the end of such assignments. These assignments include the Specialized Crimes Action Team (SCAT), Santa Clara County Special Enforcement Team (SCCSET), and the Administrative Narcotics Investigator.

Demands for drug or alcohol analysis by supervisors which are determined to be malicious will not be tolerated and may subject the directing individual to disciplinary action.

"Designee" is defined as any sworn Santa Clara Police Officer with the rank of Assistant Chief, Captain, Lieutenant or Sergeant.

"Serious bodily injury" is defined as a serious impairment of physical condition, considerably beyond a complaint of pain or minor injury, that requires immediate professional medical treatment at a hospital or similar facility.

In the event any portion of the Chemical Testing policy herein described in this MOU is in conflict with any non-negotiated policy, procedure, manual or directive, including the Police Operations Manual, the provisions of this MOU shall prevail.

Nothing in this section shall prevent any represented employee from voluntarily requesting or providing a chemical sample if deemed appropriate by the employee.

18. EMPLOYEE ASSISTANCE PROGRAM

The City agrees to provide a confidential Employee Assistance Program to be funded outside of Total Compensation.

19. DECLARATION

The parties hereto have reached an understanding concerning the proposed salaries and fringe benefits described in the above paragraphs. All other matters dealing with wages, hours, fringe benefits including health and dental insurance contributions, and working conditions included in ordinances, resolutions, rules or regulations, or previous memorandums of understanding, shall remain unchanged for the term of this memorandum in the absence of agreement to the contrary.

20. NEXT SUBSEQUENT PROPOSED MOU

Unit #9A will submit its proposals for a new MOU for the term commencing at the expiration of this MOU no later than December 1, 2010.

